

**Funds—Counties—Constitutional Limitations—Highways
—Bridges.**

A county spending \$30,000 made up of three items of \$10,000 each for the construction of a highway and two bridges thereon must first receive the approval of the electors of the county, the same constituting a single project within the meaning of section 5, article 13 of the constitution.

Mr. J. H. Forster,
County Attorney,
Malta, Montana.

June 30, 1931.

My dear Mr. Forster:

You advise me that the county commissioners of Phillips county are contemplating contributing (under authority of subdivision 4 of section 4465, R.C.M. 1921, as amended by chapter 100 of the 1931 session laws) a total sum of approximately \$30,000.00 toward the construction of a bridge by the state highway commission over the Missouri river at a point between Blaine county and Fergus county, and the construction by the commission of a highway leading from the said bridge and crossing Alkali creek in Phillips county where another bridge will be constructed, the highway thence continuing on to the city of Malta in said Phillips county.

The said sum of approximately \$30,000.00 is made up of three separate contributions, namely: about \$10,000.00 for the construction of the Missouri river bridge; about \$10,000.00 for the construction of the bridge across Alkali creek; and about \$10,000.00 for the construction of the highway from the Missouri river bridge to Malta. You inquire if the county can lawfully make these contributions without submitting the question to the electors for their approval upon the theory that each contribution is for a separate purpose or whether all three contributions are really made for a single purpose so that the entire \$30,000.00 is to be expended for a single purpose requiring the approval of the electors as provided by the constitution before the expenditure can be made.

The constitutional provision in question is section 5 of article XIII which provides:

“No county shall incur any indebtedness or liability for any single purpose to an amount exceeding ten thousand dollars (\$10,000.00) without the approval of a majority of the electors thereof, voting at an election to be provided by law.”

In *State ex rel. Turner vs. Patch, et al*, 64 Mont. 565, 210 Pac. 748 the supreme court, in considering the meaning of the words “single purpose” in the above mentioned provision of the constitution said that they convey to the mind the idea of one object, project or proposition—a unit isolated from all others; that to constitute a single purpose, the elements which enter into it must be so related that, when combined, they constitute an entity; something complete in itself but separate and apart from other objects.

It has been held by our supreme court that a bridge is to be treated as merely a portion of a public highway.

State ex rel. Foster vs. Ritch, et al, 49 Mont. 155,
140 Pac. 731;

Reid vs. Lincoln County, 46 Mont. 31, 125 Pac. 429.

In the last mentioned case the supreme court quoted with approval from the opinion of the supreme court of Utah in the case of State ex rel. Horsley vs. Carbon county, 38 Utah 563, 114 Pac. 522, wherein it was held that bonds issued for the purpose of building bridges and roads were issued for one general object and not for two purposes. The Utah court said:

“The purpose was one general object. A bridge across the streams in the country in question without some kind of a highway would be useless. A highway without bridges over the streams would be impracticable. Both are but parts of one general object.”

In the proposition submitted by you it clearly appears that the purpose of contributing the three items of \$10,000.00 each, or less, is for the purpose of procuring a highway across the Missouri river and extending to Malta. The construction of the two bridges in question is but a part of the construction of the highway. The purpose in making the contributions, the object to be attained thereby is the highway above mentioned. That is the real and only unit for which the moneys are to be expended, the bridges forming a part of the highway being included within the unit.

I am therefore of the opinion that under the decisions above mentioned the county cannot make these contributions without submitting the question to the electors of the county at an election and obtaining their approval thereat.

I have taken cognizance of section 2 of chapter 188 of the laws of 1931 wherein, for the purpose of issuing county bonds, the legislature has declared what shall be deemed single and separate purposes. In so far as the constitutional question here involved is concerned, however, namely, the question of the power to incur a debt or liability in excess of \$10,000.00 for a single purpose, the meaning to be given the words “single purpose” appearing in the provision of the constitution above mentioned, must be that which was intended by the framers of the constitution, and any subsequent definition by the legislature changing that meaning cannot prevail over the original meaning as otherwise the constitution could in effect be amended through the process of enacting legislation defining terms used in the constitution in such a manner as to destroy the original intention and effect of the provisions of that instrument.

Very truly yours,

L. A. FOOT,

Attorney General.